

SQUIRES ESTATES (EDE)
NINE-LOT MAJOR SUBDIVISION AND SUBDIVISION FOR LEASE OR RENT ON LOT A5
(Referred back to Planning Board by BCC on November 3, 2005)

***** STAFF REPORT FOR SECOND PLANNING BOARD MEETING*****

CASE PLANNER: Benjamin H. Howell *BH*

**REVIEWED AND
APPROVED BY:** Renee Van Hoven *RV*

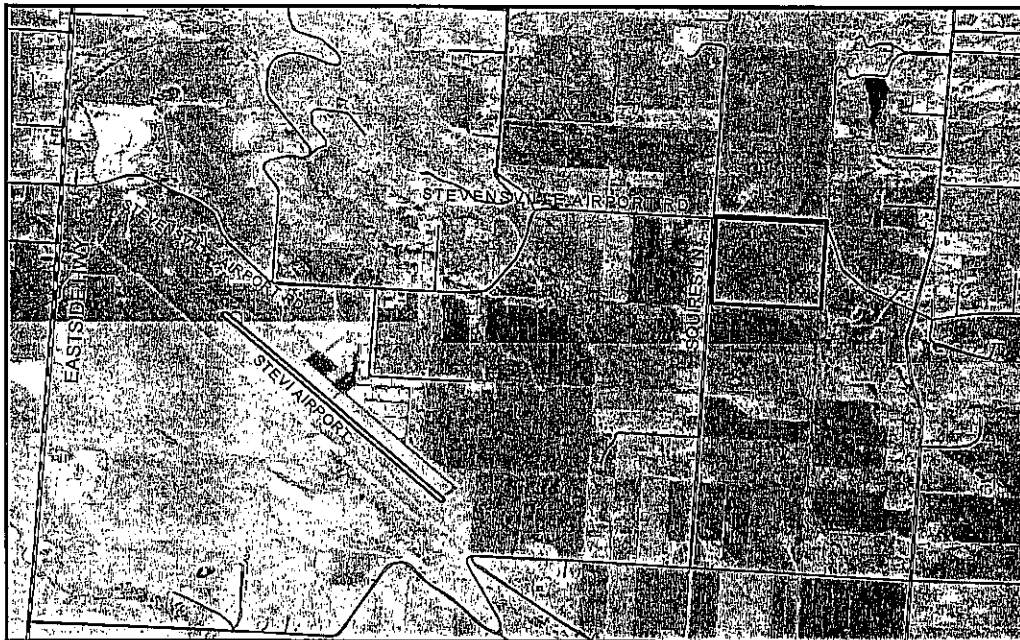
**PUBLIC HEARINGS,
MEETINGS AND
DEADLINES:**

RCPB Public Hearing (First):	September 21, 2005
BCC Public Meeting (First):	November 3, 2005
RCPB Plat Evaluation:	May 17, 2006
RCPB Public Hearing (Second):	June 7, 2006
Deadline for PB recommendation to BCC:	July 19, 2006
BCC Public Meeting (Second):	July 25, 2006
(Unless PB delays decision)	
Deadline for BCC action (60 working days):	August 11, 2006

APPLICANT / OWNER: Terry and Dani Ede
4068 Squires Lane
Stevensville, MT 59870

REPRESENTATIVE: Terry Nelson with Applebury Survey, 961-3267

LOCATION OF REQUEST: The property is located northeast of Stevensville off Stevensville Airport Road and Squires Lane. (Map 1)



Map 1: Location Map
(Source Data: Ravalli County Planning Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

Parcel A of COS 541198 in the SE ¼, Section 18, T9N, R19W,
P.M.M., Ravalli County, Montana.

**APPLICATION
INFORMATION:**

The first public hearing before the Planning Board for the Squires Estates subdivision was September 21, 2005 (Exhibit A: Planning Board Meeting Minutes). The first public meeting before the Board of County Commissioners (BCC) was November 3, 2005 (Exhibit A-1: BCC Meeting Minutes). At this meeting, the BCC encouraged the applicant to design the subdivision with an internal road. No decision was made and the applicant decided to modify the proposal. The updated subdivision application was determined sufficient on April 28, 2006. Agencies were notified of the updated proposal and comments received by the Planning Department are Exhibits A-2 through A-5 of the staff report.

LEGAL NOTIFICATION:

A legal advertisement was published in the Ravalli Republic on May 2, 2006. Notice of the project was posted on the property, and adjacent property owners were notified of the subdivision and variance request by certified mail postmarked May 2, 2006. No new public comments regarding the changes to the original proposal have been received to date.

**DEVELOPMENT
PATTERN:**

Subject property	Existing shop/apartment, riding arena, and agriculture
North	Agriculture
South	Agriculture
East	Large lot residential and agriculture
West	Large lot residential and agriculture

RAVALLI COUNTY PLANNING BOARD

JUNE 7, 2006

SQUIRES ESTATES (EDE)
NINE-LOT MAJOR SUBDIVISION AND SUBDIVISION FOR LEASE OR RENT ON LOT A5
SECOND PLANNING BOARD MEETING

RECOMMENDED MOTION

That the Squires Estates (Ede) major subdivision ***be approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

RECOMMENDED MITIGATING CONDITIONS OF APPROVAL

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. (Effects on Agriculture)

Notification of Irrigation Ditches and Easements. Within this subdivision there are irrigation ditches and easements. All downstream water right holders have the right to maintain and repair their ditches/pipelines and diversion structures whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The downstream water rights holders must approve any relocation or alteration (i.e. installation of a culvert) of an irrigation ditch or pipeline. Any act which damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. The downstream water right holders have the right to use the easement to maintain the ditch or pipeline. (Effects on Agricultural Water User Facilities)

Limitation of Access onto a County Road(s). A "no ingress/egress" restriction is located along the Stevensville Airport Road and Squires Lane frontages of the subdivision, excepting the approach to the internal road off Squires Lane that is approved by the Road and Bridge Department, which precludes vehicular access onto these County-maintained roads. This limitation of access may be lifted or amended with approval of the County. (Effects on Local Services)

Notification of Road Maintenance. Ravalli County, the State of Montana, or any other governmental entity does not maintain the internal subdivision road and therefore does not assume any liability for improper maintenance or the lack thereof. A Road Maintenance Agreement for the internal road was filed with this subdivision and outlines what parties are responsible for road maintenance and under what conditions. (Effects on Local Services)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Living with Wildlife. (See letter from FWP in application packet for the required provisions) (Effects on Wildlife and Wildlife Habitat and Public Health and Safety)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Uniform Fire Code (UFC) requires lot owners to post the County-issued addresses at the intersection of the driveway leading to the primary residence and the accessing road as soon as construction on the residence begins. (Effects on Local Services and Public Health and Safety)

Primary Heat Source. The primary heat source for the newly constructed residences in this subdivision shall be at least 75% efficient. (Effects on Natural Environment)

Lighting for New Construction. Full cut-off lighting shall be required for any new construction within this subdivision. A full cut-off fixture means fixtures, as installed, that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light emitted. The source of light is fully shielded, top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. Spotlighting of flag poles shall be permitted. (Effects on Public Health & Safety)

Control of Noxious Weeds. Lot owners shall control the growth of noxious weeds on their respective lot(s). (Effects on Natural Environment)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. (Effects on Public Health and Safety)

Amendment. The covenants filed with the final plat shall state that written Governing Body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (Effects on all six criteria)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Acceptance of a deed for a lot within this subdivision shall constitute the assent of the owners and any successors in interest to any future RSID/SID, based on benefit, for a community wastewater system, community water system, or upgrading roads leading to or within the subdivision, including but not limited to paving, curbs and gutters, non-motorized transportation facilities, street widening, and drainage facilities. (Effects on Local Services)
4. The final plat shall show no ingress/egress zones along the Stevensville Airport Road and Squires Lane frontage of the subdivision, excepting the approach for the internal road off Squires Lane approved by the Road and Bridge Department. (Effects on Local Services)
5. A stop sign shall be installed at the intersection of the internal road and Squires Lane, reviewed by the Road and Bridge Department, and approved by the Planning Department. (Effects on Local Services and Public Health and Safety)
6. The internal subdivision road shall be labeled as a public road and utility easement on the final plat. (Effects on Local Services)
7. The Road Maintenance Agreement for the internal subdivision road shall include the maintenance of storm water drainage facilities. (Effects on Local Services)

8. Proposed irrigation easements shall be shown on the final plat. (Effects on Agricultural Water User Facilities)
9. The subdividers shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot/unit within this subdivision. (Effects on Public Health and Safety)
10. The applicants shall provide evidence that an amount per lot/unit (to be decided by the Planning Board) has been contributed to the Stevensville and Lone Rock School Districts prior to final plan approval. (Effects on Local Services)
11. The applicants shall meet the water supply requirements in the Uniform Fire Code, subject to review and approval of the Stevensville Rural Fire District, or provide a financial contribution of \$500 per lot/unit to the Fire District prior to final plat approval. (Effects on Local Services & Public Health and Safety)

INTRODUCTION

The developer originally proposed a five-lot subdivision and three-unit subdivision for lease or rent on Lot A5. The applicants are now proposing nine lots with three total units (existing shop/apartment, existing riding arena, and proposed main house) on Lot A5. Lots 1 through 8 will access off an internal subdivision road, Wind Dancer Way, and Lot A5 will continue to utilize the two existing accesses.

Staff recommends conditional approval of the subdivision proposal.

SUBDIVISION REPORT

COMPLIANCE WITH PRIMARY SUBDIVISION REVIEW CRITERIA

CRITERION 1: EFFECTS ON AGRICULTURE *(Staff Note: The addition of an internal road and new configuration of lots does not affect agriculture; therefore, only minor changes have been made to Effects on Agriculture regarding access.)*

Findings of Fact:

1. The applicants are proposing nine lots with eleven total units on 40.20 acres. Lots 1 through 8 will have single residential homes. There is an existing shop/apartment and riding arena, with a main house proposed on Lot A5.
2. The property has been irrigated and used for agriculture in the past.
3. The property is located approximately 2.5 miles northeast of the Town of Stevensville in an area of mixed agricultural and large lot residential uses. To mitigate impacts on surrounding agricultural practices, a notification of agriculture shall be included in the Notification Document filed with the final plat. (Condition 1)
4. There are no Prime Farmland Soils or Farmland of Statewide Importance associated with this property.

Conclusions of Law:

1. With the mitigating condition, impacts of this subdivision on surrounding agricultural practices should be minimized.
2. While this development will take agricultural land out of production, the property is located within an area of similar density and development. Encouraging development in this area may help to conserve agricultural land elsewhere in the County.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES *(Staff Note: The addition of an internal road and new configuration of lots does not affect agriculture; therefore, only minor changes have been made to Effects on Agricultural Water User Facilities.)*

Findings of Fact:

1. The application states that 38.9 irrigated acres of water are provided to the property by the Bitter Root Irrigation District (BRID). A network of ditches, as shown on the preliminary plat, will provide each lot with water. Lots 1 through 8 will be allotted 2.5 irrigated acres each and Lot A5 will be allotted 20.0 irrigated acres.
2. As a requirement of final plat approval, Section 3-3-4(c)(25) of the Ravalli County Subdivision Regulations requires the approval of the irrigation district when irrigation ditches/pipelines are to be altered.
3. Installation of irrigation infrastructure is required to be completed prior to final plat approval.
4. There are a number of existing and proposed easements associated with the ditches shown on the preliminary plat. Showing proposed irrigation easements helps to ensure that agricultural water user facilities are not adversely affected by the subdivision. (Condition 8)
5. To notify future property owners of the irrigation rights associated with this property and the role of the Irrigation District and to mitigate potential impacts on agricultural water user facilities, a notification of the irrigation ditches and easements shall be filed with the final plat. (Condition 1)

Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts to agricultural water user facilities will be minimized.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

1. At build-out this subdivision could generate 80 vehicular trips per day on the road system, assuming 8 trips per day per single-family dwelling. There may be additional traffic associated with the riding arena.
2. Both Stevensville Airport Road and Squires Lane are County-maintained roads that provide access to the subdivision. If either or both roads do not meet County Standards, prior to final plat approval, the applicant will be required to pay the pro-rata share of the cost to improve the substandard road(s) from the subdivision to Eastside Highway.
3. An approach permit from the Ravalli County Road and Bridge Department (RCRBD) is required prior to final plat approval for the internal subdivision road. To mitigate impacts on local services and restrict access on Squires Lane and Stevensville Airport Road, no-ingress/egress zones along the Squires Lane and Stevensville Airport Road frontage of the subdivision, excepting the approved approach for the internal road off Squires Lane, shall be on the final plat and a notification of the limitation of access shall be filed with the final plat. (Conditions 1 & 4)
4. Lots 1 through 8 are proposed to be served by an internal road, which will meet minor local road standards. Submittal of final grading and drainage plans, an approved road name petition for the internal subdivision road, and a Road Certification, as certified by a professional engineer, are requirements of final plat approval. Installation of all infrastructure improvements is also required to be completed prior to final plat approval, which includes construction of the road and stormwater drainage facilities and installation of road name signs for the internal subdivision road. A General Discharge Permit for Stormwater Associated with Construction Activity from DEQ may also be required.
5. In order to ensure that the public has usage of the road within this subdivision, the internal subdivision road shall be dedicated as a public road and utility easement on the final plat. (Condition 6)
6. To mitigate impacts on the road system and public safety, the applicant shall install a stop sign at the intersection of the internal road and Squires Lane. (Condition 5)
7. A Road Maintenance Agreement was proposed for the internal subdivision road and is required to be submitted with the final plat application. A notification of the Road Maintenance Agreement shall be included in the Notifications Document, and the Road Maintenance Agreement shall include stormwater drainage. (Conditions 1 & 7)
8. Individual wells and wastewater treatment systems are proposed for the lots and units within this subdivision.
9. To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, an RSID/SID waiver filed with the final plat shall address these services/facilities. (Condition 3)
10. Bitterroot Disposal provides services to this site.
11. The subdivision questionnaire indicates the parkland dedication for this subdivision is required to be 1.00 acre and cash-in-lieu of parkland dedication is proposed. The Department of Revenue indicated the unimproved and unsubdivided value of the property is \$3,576.00 per acre, which results in a cash donation of \$3,576.00 (*Exhibit A-2*). Cash-in-lieu of parkland dedication shall be paid as a requirement of final plat approval.
12. In a comment letter dated May 4, 2006, the Stevensville School District asked for a contribution of \$5,000 per lot. The developers are proposing to contribute \$100 per lot to the Stevensville and Lone Rock School Districts. To mitigate impacts of the subdivision on the Stevensville and Lone Rock School Districts, the applicants shall contribute an amount (to be determined by the Planning Board) per lot/unit to the School Districts. (*Exhibit A-3*) (Condition 10)
13. In a letter dated May 11, 2006, the Stevensville Fire District recommended that the applicant either provide the water supply requirements adopted under the Uniform Fire Code or a \$500

per lot/unit contribution, which will mitigate impacts on local services and public health and safety. (*Exhibit A-4*) (Condition 11)

14. The Ravalli County Sheriff's Office provides law enforcement services to this area.

15. Public Services are adequate for this subdivision.

Conclusion of Law:

With the mitigating conditions and requirements of final plat approval impacts on local services will be minimized.

CRITERION 4: EFFECTS ON THE NATURAL ENVIRONMENT (*Staff Note: The addition of an internal road and new configuration of lots does not affect the natural environment; therefore, only minor changes have been made to Effects on the Natural Environment.*)

Findings of Fact:

1. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision and adequate information has been provided to the Environmental Health Department for local subdivision review to occur. A Certificate of Subdivision Plat Approval from Montana DEQ is required to be submitted with the final plat. (*Exhibit A-5*)
2. To mitigate air pollution resulting from home heating emissions, the protective covenants filed with the final plat shall state that the primary heat source for any newly constructed residences must be at least 75% efficient (Condition 2).
3. An approved noxious weed and vegetation control plan is required to be filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board. To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision (Condition 2).

Conclusion of Law:

With the mitigating conditions and the requirements of final plat approval, impacts from this subdivision on the natural environment will be minimized.

CRITERION 5: EFFECTS ON WILDLIFE AND WILDLIFE HABITAT (*Staff Note: The addition of an internal road and new configuration of lots does not affect wildlife and wildlife habitat; therefore, only minor changes have been made to Effects on Wildlife and Wildlife Habitat.*)

Findings of Fact:

1. The property is not located within the FWP-identified big game winter range and there are no species of special concern listed in the vicinity of the property.
2. Wildlife may travel through this area. To mitigate impacts on wildlife and wildlife habitat, the covenants shall address living with wildlife, as recommended by FWP. (application) (Condition 2)

Conclusion of Law:

With the condition of approval, impacts of the proposed subdivision on wildlife will be mitigated.

CRITERION 6: EFFECTS ON PUBLIC HEALTH AND SAFETY

Findings of Fact:

1. The applicant has removed accesses from Stevensville Airport Road, a minor collector roadway, and now the lots will access off an internal road or Squires Lane, a lower classified road. With the recommended conditions and requirements of final plat approval, access to the

subdivision will be adequate for public health and safety. (Conditions 1, 2, 3, 4, 5, and 9)
(Effects on Local Services)

2. To mitigate impacts on public health and safety, the subdivider shall apply for County-issued addresses for each lot/unit and a provision requiring property owners to post County-issued addresses at their driveways shall be included in the covenants. (Conditions 2 and 9)
3. The condition that addresses the Rural Fire District's usual recommendation will mitigate impacts on public health and safety. (Condition 11)
4. Individual wells and septic systems are proposed for lots/units within this subdivision. (Natural Environment)
5. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision requiring full cut-off lighting with the exception of flag poles. (Condition 2)
6. There is a prevalence of radon in the County and to mitigate impacts on public health and safety, the covenants shall include a statement regarding radon exposure. (Condition 2)

Conclusion of Law:

The new proposal, mitigating conditions and requirements of final plat approval address impacts of this subdivision on public health and safety.

COMPLIANCE WITH:

1) THE SURVEY REQUIREMENTS PROVIDED FOR IN PART 4 OF M.C.A. 76-3.

Finding of Fact:

The Seal of a Professional Land Surveyor or Engineer is required on all final plats, which states that the subdivision complies with part 4 of M.C.A. 76-3.

Conclusion of Law:

This proposal meets the survey requirements or conditions have been required to bring the proposal into compliance.

2) THE LOCAL SUBDIVISION REGULATIONS PROVIDED FOR IN PART 5 OF M.C.A. 76-3.

Finding of Fact:

Subdivisions are required to comply with the local subdivision regulations provided for in part 5 of M.C.A. 76-3.

Conclusion of Law:

The developer has submitted a plan which complies with the requirements of local subdivision regulations or conditions have been required that will bring the plan into compliance.

3) THE LOCAL SUBDIVISION REVIEW PROCEDURE PROVIDED FOR IN THE RAVALLI COUNTY SUBDIVISION REGULATIONS

Findings of Fact:

1. Subdivisions are required to comply with the local subdivision review procedure provided for in the Ravalli County Subdivision Regulations.
2. A decision of the governing body rejecting or approving a proposed subdivision may be appealed to the district court within thirty (30) days of such decision. The petition shall specify the grounds upon which the appeal is made. An appeal may be made by the subdivider; a landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the unincorporated area of the county that can show a likelihood of material injury to the landowner's property or its value; a first class municipality if the subdivision is within three miles of its limits, a second class municipality if a subdivision is within two miles of its limits, a third class municipality or town if the subdivision is within one mile of its limits. An aggrieved party means a person who can demonstrate a specific personal

and legal interest, as distinguished from a general interest, who has been or is likely to be specially and injuriously affected by the decision.

Conclusion of Law:

This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations.

CONSISTENCY WITH EXISTING ZONING AND COVENANTS

Findings of Fact:

1. The property is not located within a zoning district.
2. There are no existing covenants on the property.

Conclusion of Law:

There is no zoning or existing covenants on this property.

PROVISION OF EASEMENTS FOR UTILITIES

Findings of Fact:

1. The plat indicates existing utility easements are located along Stevensville Airport Road, Squires Lane, and the internal subdivision road. Utility easements are required to be shown on the final plat.
2. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Telephone. Utility Certificates are required for final plat approval.

Conclusion of Law:

Utility services will be available to this subdivision.

PROVISION OF LEGAL AND PHYSICAL ACCESS

Finding of Fact:

Physical and legal access for this subdivision is proposed via Stevensville Airport Road, Squires Lane, and the internal subdivision road. (Local Services)

Conclusion of Law:

With the conditions of approval and requirements of final plat approval, the proposal meets physical and legal access requirements.

EXHIBIT A

Ravalli County Planning Board Meeting Minutes for September 21, 2005

3:00 p.m.

Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana

Public Hearings

Ravalli Farm Block 3, Lot 6, AP (Bean) Major Subdivision and Two Variances
Squires Estates Five-Lot Subdivision and Three-Unit Subdivision for Lease or Rent on
Lot A5 (Ede) Major Subdivision and Two Variances
Riverview Orchards Block 4, Lot 8A, AP (Wilkinson) Minor Subdivision and One
Variance

This is a summary of the meeting, not a verbatim transcript. An audiotape of the meeting may be purchased from the Planning Department for \$10.00.

1. Call to order

Dan called the meeting to order at 2:58 p.m.

2. Roll Call (See Exhibit A, Roll Call Sheet)

(A) Members

David Dennis (not present-excused)
Ben Hillicoss (present)
Dan Huls (present)
Frankie Laible (not present-excused)
Roger Linhart (present)
Howard Lyons (present)
Chip Pigman (present)
Tom Ruffatto (not present-excused)
Les Rutledge (present)
Lori Schallenberger (not present-excused)

(B) Staff

Lavena House
Renee Van Hoven
James McCubbin
Patrick O'Herren
Kelli Zittergruen

3. Approval of Minutes

Dan asked if there were any corrections or additions to the minutes from September 7, 2005. There were no corrections and the minutes were approved.

4. Amendments to the Agenda

There were none

(B) Squires Estates Five-Lot Subdivision and Three-Unit Subdivision for Lease or Rent on Lot A5 (Ede) Major Subdivision and Two Variances

- (i) Staff Report on the Subdivision Proposal and Variance Request:
Renee Van Hoven gave a PowerPoint presentation regarding the subdivision. She outlined the proposal and stated the Road Department recommends denial of Variance Request #1 because they do not approve of multiple accesses onto County roads. The Commissioners recently required an internal road and as a result that subdivision was sent back to the Planning Board so the developer can submit road plans. She said Variance #2 would not be required if Variance #1 is denied. The Staff recommends conditional approval of the subdivision with ten conditions outlined in the Staff Report. (See Exhibit D, Ravalli Farm Block 3, Lot 6 AP (Bean) Six-Lot Major Subdivision with Two Variance Requests Staff Report and Exhibit B, Agency Comments from Road and Bridge Department).

- (ii) Three Minute Rule Waiver Requests

There were none.

- (iii) Public Comments

- (a) Persons in Favor

Terry Nelson, of Applebury Survey, reviewed the six Criteria. He discussed the site distance for the common accesses. He stated the speed limit on the bend in Stevensville Airport Road is 20 mph and he doesn't believe the eastern common access that is proposed there is a safety hazard. He explained the two Variance Requests. He stated that if the developer is required to put in an interior road, he would split the 5 lots into a 9-lot subdivision. He said the use of two common accesses reduces dust on Squires Lane and reduces the amount of lots.

Bob Pauley said he has the same comments as for the Bean AP.

- (b) Persons Opposed

Bob Scott serves on the Hamilton City Council and is concerned about the increase in traffic from these subdivisions. He said that without a means to mitigate the cumulative impact from all the subdivisions the requests should be denied until it is determined what impacts will be on the community.

(c) Rebuttal

Terry Nelson said that people are still moving here and housing is minimal. He said if we discontinue subdivisions it won't stop people from moving here.

(d) Close: Public Comment

(i) Board Deliberation on the Variance Request #1 (from building an internal road.)

(a) Board Discussion and Questions

Ben recommended denial of Variance Request #1. He would rather approve one or two acre lots as opposed to five acre lots.

Roger said he agrees with Staff to deny Variance Requests #1 and #2 with conditional approval of the subdivision with the ten conditions outlined in the Staff Report.

Chip said he would like to know the impact of the common accesses on a major road versus a minor road. He said that he would agree that a high traffic area could be an issue, but he didn't think Stevensville Airport Road has much traffic. **Les** said his main concern is that the roadway seems to be a substandard County road. He said there is an existing access off Squires Lane where an interior road could be constructed. **Terry Ede**, the developer, said he does not want to use that existing access because there is a stallion in the pen and there is a liability issue. **Les** continued to discuss possible locations for interior roads. **Terry Nelson** said that **Terry Ede** desires to have a separate access to his main residence. **Ben** said if one access off Squires Lane ran through the middle of the property it would solve the problem. **Chip** said we should consider the visual impact. **Les** said the Board can't deny the Road and Bridge Department warnings. **Renee** added that **David** looked at the plat for Squires Estates and does not support the variances.

(b) Board Action

(1) Review of the Variance Request #1 against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings of fact in the Staff Report.

(2) Board Decision on Variance Request #1

Les made a motion to deny Variance Request #1 (from the Staff Report).

Ben seconded the motion.

The vote was called; the Members voted (6-0) to deny the Variance Request #1 (See Exhibit E, Vote Sheet – Squire Estates Variance #1)

(ii) Board Deliberation on the Variance Request #2 (from accessing Lot A1 from the lower classified road)

(a) Board Discussion and Questions

(b) Board Action

(1) Review of the Variance Request #2 against the Five Criteria

The Board did not review the Five Criteria beyond their discussion and the findings in the Staff Report.

(2) Board Decision on Variance Request #2

The Board confirmed that Variance #2 was not required because the Board recommended denial of Variance #1.

(iii) Board Deliberation on the Subdivision Proposal

(a) Board Discussion and Questions

Les made a motion to approve the subdivision according to the Staff Report with conditions as indicated.

Ben asked where the road would be located and **Renee** responded that the Variance application would come back through the Planning Board. **Patrick** joined the meeting and said that if the Board denies the Variance then the subdivision would have to be denied because there would be no access.

Les withdrew his motion.

(b) Board Action

(1) Review of the Subdivision Proposal against the Six Criteria

The Board did not review the Six Criteria beyond their discussion and the findings in the Staff Report.

(2) Board Decision on the Subdivision Proposal

Ben made a motion to deny the subdivision because of the lack of access.

Roger seconded the motion

The vote was called; the members voted 5-0, with 1 abstention to deny the Subdivision (See Exhibit F, Vote Sheet-Squires Estates Subdivision)

A short discussion was conducted by the Board with **Terry Nelson** and **Bob Scott** on the subdivision review process.

(C) Riverview Orchards Block 4, Lot 8A, AP (Wilkinson) Minor Subdivision and One Variance

(i) Staff Report on the Subdivision Proposal and Variance Request

Kelli Zittergruen gave a PowerPoint presentation about the proposal. She requested the Board's attention to Condition #7 regarding a school contribution. She said the Variance Request from the road standards, was asking to allow the internal subdivision road to specifically not meet the paving requirement of the minor local road standards. She said Staff recommends approval of the subdivision with nine conditions with space for the school contribution, and denial of the variance request. (See Exhibit G, Riverview Orchards Block 4, Lot 8A AP (Wilkinson) Four-Lot Minor Subdivision with One Variance Request Staff Report)

(ii) Three Minute Rule Waiver Requests

There were none.

(iii) Public Comment on the Subdivision and Variance Request

(a) Persons in Favor

Terry Nelson, of Applebury Survey, reviewed the Six Criteria. He said the Developer has already proposed a contribution to Florence-Carlton schools. He said the developer is requesting to build a road to County standards with the absence of paving. The mitigation would be application of dust abatement, once before the plat is filed, once during

EXHIBIT A-1

COMMISSIONERS APPROVAL

CHILCOTT

LUND

THOMPSON

TAYLOR (Clerk & Recorder)

Date.....November 3, 2005

Members Present.....Commissioner Betty Lund and
Commissioner Alan Thompson

Minutes: Glenda Wiles

Commissioner Greg Chilcott was in Helena participating in the interview process for the Associate Director position at MACo.

The Board met for a Request for Commission Action on the Squires Subdivision. Present at this meeting was Planner Renee Van Hoven, Civil Counsel James McCubbin, Applicant Terry Ede and the Applicants' Consultant Terry Nelson.

Commissioner Lund read the following statement:

Today's agenda includes one or more land use issues. Because of my years of service as Ravalli County Clerk & Recorder and now as Commissioner and because members of my family are involved in the real estate profession, I am providing this statement in the interest of full and open disclosure. My husband, son and brother-in-law are realtors who conduct business in this county. I do not participate in their real estate business or related matters except as the passive title owner of the building rented by their real estate business. Although connections with my family or their business and the land use issues facing us today are possible, I am not aware of any direct connections and thus do not believe I have any conflicts of interest arising out of my participation in today's meeting.

Renee presented a power point presentation and entered the following Request for Commission Action into the record as follows:



REQUEST FOR COMMISSION

ACTION

OG-05-10-_____

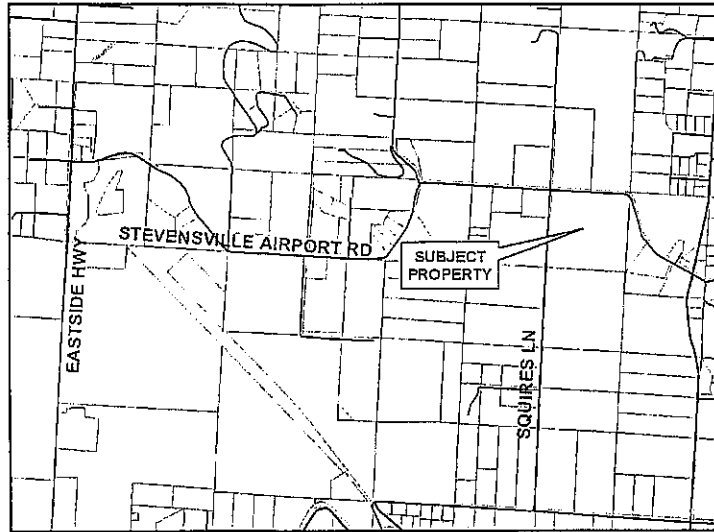
Site Visit: November 1, 2005 at 3:30 p.m.
Meeting: November 3, 2005 at 9:00 a.m.
Request: To act on the proposal for the Squires Estates Major Subdivision (Five-lot Subdivision and Three-unit Subdivision for Lease or Rent on Lot A5) and Two Variance Requests.

I. ACTION REQUESTED

This is a request from Terry and Dani Ede, represented by Applebury Survey, to approve the **Squires Estates Major Subdivision (Five-lot Subdivision and Three-unit Subdivision for Lease or Rent on Lot A5) and Two Variance Requests.**

II. BACKGROUND

Squires Estates is a five-lot subdivision and three-unit subdivision for lease or rent on Lot A5 located northeast of Stevensville off Stevensville Airport Road and Squires Lane (Map 1). The proposal is considered a major subdivision because there are seven potential units within the subdivision. The applicants are currently building a combined shop and apartment in the southwestern portion of Lot A5, proposing a main house in the northwestern portion, and proposing a riding arena for commercial use in the southeastern portion of Lot A5. Since the combined shop and apartment and the main house will have both living quarters and bathroom facilities, they are considered additional units. The consultant representing the applicants stated that the riding arena would not have bathroom facilities at the September 7, 2005 Planning Board Meeting. The riding arena will be a commercial business and therefore, the riding arena is considered an additional unit.



Map 1: Location Map

(Source Data: Ravalli County Planning Department)

In conjunction with the subdivision proposal, the applicant is requesting the following two variances:

1. For relief from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations, which requires an internal subdivision road. *Please note that Variance #1 in the Request for Commission Action (RCA) corresponds to Variance #2 in the application packet.*
2. For relief from Section 5-2-2(c)(4) of the Ravalli County Subdivision Regulations, which requires that Lot A1 access off Squires Lane, the lower classified road. *Please note that Variance #2 in the RCA corresponds to Variance #1 in the application packet.*

Staff recommended denial of the variances and conditional approval of the subdivision. (Staff note: Staff later realized that with denial of Variance #1, the subdivision would have to be denied because there would be no access to the lots within the subdivision.)

III. PLANNING BOARD RECOMMENDATIONS

The Ravalli County Planning Board took the actions outlined below at the Public Hearing on September 21, 2005.

Variance Request (from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations, which requires an internal road)

The Board chose not to review the five criteria individually. The Board made a motion to recommend **denial** the variance request, based on the findings of fact and conclusions of law in the staff report. **The Board voted 6-0 to approve this motion.**

Variance Request (from Section 5-2-2(c)(4) of the Ravalli County Subdivision Regulations, which requires Lot A1 to access off Squires Lane, the lower classified road)

The Board confirmed that with the denial of Variance #1, all lots must access off an internal road, and Variance #2 was not required.

Subdivision Proposal

The Board chose not to review the six criteria individually. The Board made a motion to recommend **denial** of the Squires Estates major subdivision proposal, based on the finding that with the denial of Variance #1, there is no access to the lots within the proposed subdivision. **The Board voted 5-0 to approve this motion, with 1 abstention.**

Comments from the meeting are contained in the record.

IV. PLANNING BOARD'S RECOMMENDED MOTIONS

(Note: Changes to staff's recommended motions are in underline/~~strikeout~~.)

VARIANCE REQUEST

That the variance request from Section 5-2-2(c)(6) of the Ravalli County Subdivision Regulations, for relief from constructing an internal subdivision road, be **denied**, based on the findings of fact and conclusions of law in the staff report.

SUBDIVISION PROPOSAL

That the Squires Estates Major Subdivision be ~~approved~~ **denied**, based on the findings of fact that with denial of Variance #1, there is no access to the lots within the proposed subdivision and conclusions of law in the staff report and subject to the conditions in the staff report.

REMAINING ISSUES: None known.

FISCAL IMPACT: No extraordinary fiscal impacts noted.

ATTACHMENTS: Application package
Staff Report
Plat Evaluation Meeting Minutes
Public Hearing Meeting Minutes

STAFF: Renee Van Hoven

DATE: October 25, 2005

Commissioner Lund called for public comment. James stated under Senate Bill #116; particularly if there is a denial by the Board of County Commissioners, new information could be presented. Commissioner Lund stated there is no reason for this subdivision to go back through to the Planning Board.

Terry stated this is a five-lot Subdivision, but it is defined as a major due to the shop/residence building that the developer has built. Terry stated the planning staff considers this to be a 6-lot subdivision. There will also be a riding arena located on one of the parcels. Mr. Ede purchased the 40 acres so he could have his house, shop, and riding arena on 20 acres. He would like to have building sites on the other 20 acres, but does not want an internal road. Terry stated this is now in a major subdivision review (which he disagrees with). If the Board of County Commissioners decide that the two common accesses are not allowable and the internal road is required, then his client would like to go back to the Planning Board because they will need to increase the density of the housing up to seven lots. Terry indicated that increasing the number of houses would not be a good thing, but if the Commissioners deny the variance, then they will bring this application to seven lots.

Terry pointed out that one subdivision with the same issue of an internal road has gone back to the Planning Board, however they were on one-acre lots. This parcel being addressed today is much bigger and the location has a different road classification.

Public comment was then closed.

The Board entered into their deliberations. Commissioner Lund asked what the estimation of vehicles trips per day on Airport Road was. Terry stated he did not know. Commissioner Lund asked Mr. Ede if he has any access permits. Mr. Ede stated they have two accesses onto Squires Lane. Terry stated they applied for preliminary approach permits on Airport Road in February and have not had any response yet.

Renee stated she visited with David Ohnstad and after he reviewed the plat he stated they do not recommend any accesses. Terry stated they could push the access out if needed. The speed limit is 15 miles per hour and there will not be anyone speeding as they come around and meet the access points. He felt the speed reduction at the corner would not allow it.

Commissioner Thompson said this is a nice piece of ground with good site views. He agreed it is a developable piece of land. He also stated this type of variance frustrates him, because he is being told if they do not approve of the variance then the developer will ask for more lot density. Commissioner Thompson stated he does not like to be threatened in that respect. He stated he drove the corner yesterday and was able to go more than 15 miles per hour. He noted that signs are always posted 10 miles below what you can drive a corner at. The site distance is not correct and this can be divided with an internal road. He said he sees no sense asking to vary the regulations on a higher rated road and not to build an internal road. Commissioner Thompson further stated if this was properly presented without the variances, he could approve of this subdivision. Commissioner Thompson also noted an issue with the stallion that is pastured there. Mr. Ede stated that comment about the stallion came from a Planning Board member.

Commissioner Thompson stated at this point of the process, it is his opinion the developer should take this request for subdivision back to the Planning Board with a different design.

Commissioner Lund asked about the stallion. Mr. Ede stated the Planning Board member asked about the placement of a gate, which will not be installed until he moves there. He stated the gate has nothing to do with the stallion that he utilizes for stud service.

Mr. Ede stated his wife trains horses and works with riders a few days per week. Terry stated they would like to have the approach permit issued so it helps with the location of the arena.

Commissioner Lund stated due to the lease or rent issue she spent some time with DEQ. She stated she does fully understand the issue of two houses on twenty acres. Mr. Ede stated this is not a commercial facility. The house is one bedroom with one bathroom that can be accessed from the outside for the horse riders. They will then build a new home, continuing to use the current home.

Commissioner Lund stated the Road department would not issue an approach permit.

Mr. Ede said if they could come off Airport Road into the west end of the property he could bring the access along the road and not ruin the other lots with a road down the middle of them. Commissioner Thompson asked about centering a 30' road. Mr. Ede stated he wants the traffic away from his house, therefore he needs to run the road parallel to Airport Road. (It would be like a frontage road).

James stated the Commissioners are speculating about a variance they do not have in front of them. He also stated the developer would need a variance to access off Airport Road, and the current access addresses this off Squires. Renee stated the developer would need two variances because Lot A-5 has its' own access.

Terry stated a frontage road is difficult under the new regulations. Therefore, he would anticipate having three variances. Mr. Ede stated when they submitted this subdivision application one year ago, some of these local regulations did not exist. He stated now he is being subjected to rules and regulations that were not there. He stated this is not right for him or the general public. He stated 'something is not right' in county government. Mr. Ede stated the Road Department Supervisor had these approach applications on his desk for over a year and did not even look at them prior to the first Planning Board meeting. Then the Road Supervisor went on vacation and at the next Planning Board meeting, every one of the requests that the Road Supervisor looked at was denied. Mr. Ede asked if the Road Supervisor was in a 'hurry or something' when he did his work.

Commissioner Lund stated the county has budgeted for two more planners, and the growth is drowning them.

Mr. Ede stated there should be some sort of balance because these (laws) regulations were not in place when he started the process. He asked how he could be responsible for something that has not come about yet. He asked how he could even anticipate it.

James said he is not sure what laws Mr. Ede is referring to. But in regard to the new regulations, the County would be subject to damages for delays. He stated he does not buy into the argument about the new laws.

Mr. Ede stated the female planner told him; "When I get to it,". Therefore he was afraid to make any comments because he was afraid his subdivision would be put back to the bottom of the pile.

Terry stated it should be the applicant's decision to rework this proposal and send it back to the Planning Board. Therefore, they are asking for that extension. Terry stated it was eight months after they applied to the Road Department that the Planning Board received their comments. However, neither the applicant nor the consultant received any information. Terry stated this is not only a time issue, but it seems like it is a sabotage issue. Now, after all of this time, the applicant and consultant have a lot more to do, plus a lot more time and money from the applicant is required. Terry this is frustrating for the consultants and for their clients. The interpretations have changed so many times they never know what to do. Commissioner Lund stated she understands and does not know the answer. She agreed the interpretations will change during the one year period.

Commissioner Thompson stated the Road Department, the Planning Department, and Planning Board recommend denial and the Board of County Commissioners would be hard pressed to decide differently.

Mr. Ede stated the one 20-acre parcel will never be divided again, and he is willing to put that in the covenants. The arena is not commercial and the small house will not be rented out. It might be a caretakers' cottage. He stated the other potential buyers do not want a road through their parcel.

There were some comments about the 'for lease or rent issue' and the small house.

Terry requested the additional planning fees be waived on this subdivision. James stated there would be two fees, one for each variance request and for each Planning Board hearing. Terry stated this issue has been caused because of the County's slow response and procedure.

Commissioner Lund stated the fees were held at whatever the rate was during sufficiency. Terry asked if they would pay \$200.00 or \$400.00 for the old or new regulations. James said the fee for the variance should be in place at the time. This application follows the old regulations, unless they request a variance. Terry stated that is not fair because they paid the fee, then the process took much longer. Then the fees go up and they are asked to pay the new fees.

James asked what old interpretation he and Mr. Ede were referring to. Terry stated the road classification had changed, and that is what changed this to a major subdivision, which was an additional \$500.00. James stated the major issue that is preventing this subdivision from moving forward is what Mr. Ede and Terry have decided to do.

Commissioner Thompson stated the subdivision could be presented without any variances by a new configuration. If they submit the same subdivision with the same variances, the Commissioners can waive the fees. However, if the applicant comes back with a different configuration, a fee will be charged.

Commissioner Thompson made a motion to allow an extension, sending it back to the Planning Board, waiving the fees for variances (if they are the same variances that were used during this submittal phase). If they are new variances, then there will be fees. Terry stated the new road would be under the new regulations, but he still does not know if it is a \$200.00 or \$400.00 fee. Commissioner Thompson stated if this were a new variance he would not waive any fees. Terry stated in order to take this back to the Planning Board, Mr. Ede will be required to pay another \$750.00.

Terry stated this submittal had a 10-day time frame to review, but it took 8 months for planning to get through the process. He stated the fees are a result of the County not being able to follow their own time schedule.

Renee stated there would not be an extension fee due to Senate Bill #116. A second planning hearing would be \$450.00.

Terry stated the problem is caused because of the delays by the Planning Department, and the developer gets punished because of the new regulations. Commissioner Thompson indicated Terry could look at it that way, but in reality, had they configured the proposal (lots) in a different manner they would not be facing this issue. Terry stated at the time of submittal, that was what they accepted. He stated it would have been improper for him to advise his clients of anything different.

James stated there is no difference in the internal road issue. Commissioner Thompson said the only change he sees is the lease or rent issue, which they did not address. Commissioner Lund stated they were allowing several accesses, plus they changed the number of accesses on a busy road. She stated the Road Department is changing the number of accesses, therefore she agrees with what Terry is saying. She stated she understands Terry's frustration.

Terry stated if this had been processed in three months as it should have been, then it would have been approved. He stated the process is punishing the developer and forcing more development on this piece of ground than what the developer wants. Mr. Ede stated Planning Board Member Ben Hellicoss would rather see this in ½ acre pieces.

Commissioner Thompson stated they are not forcing Mr. Ede to do anything. Mr. Ede stated if he puts in the road, then he needs to put in more lots to pay for the road. Terry stated chip seal does not work as well as pavement. So they need to put in pavement.

Commissioner Lund seconded the motion and all voted "aye."

Commissioner Lund stated she is frustrated about this whole situation with planning. Terry stated the county should do something about the long process of planning.

The meeting was then adjourned.

In comments on issues that are not otherwise on the agenda, Mr. Ede stated as a public citizen he would have fired the person who said to him "when I get to it". Plus the person hung up on him. He stated did not complain because he thought it might get bogged down further into the process. James advised Mr. Ede that he had the right to visit with the Commissioners or Patrick O'Herren who is the Planning Director in regard to this personnel complaint. Commissioner Thompson advised Mr. Ede that he should notify the Department Head, because employees should not treat anyone that way.

There was some discussion of the growth issues in the county. Terry stated two months ago they asked for a variance on a road for another subdivision. It was Planning's decision to ask for the same variance for multiple roads. He stated Patrick had told him how to prepare this variance request and when he asked if they could obtain a decision from the Commissioners, Patrick made the decision and the request was not brought forward for the Commissioners review. James stated if Terry has an issue with Patrick he can write a letter to the Commissioners, but it is important to exclude the issue of a pending subdivision because the Commissioners have not heard the subdivision as of yet.

The other issue Terry addressed was the Ron Lords Subdivision in August. He stated when the Commissioners sent it back to the Planning Board, they were to 'push it forward within 2-3 weeks. However, that was three months ago, and it just went before the Planning Board last night and the staff report shows the Commissioners will hear it in four weeks. He stated it was supposed to go to the Commissioners within a few days; and asked if planning could change what was directed by the Commissioners. Renee stated the minutes needed to be approved on the 16th and the following week is Thanksgiving; that is why it was set on Nov 29th.

Terry asked if any new variances come under the new fees. He was told they do. He asked if extensions are under the new fees. James stated 'no' on an extension fee. If the developer can show everything was in order and the delay was due to the county, then there would be no extension fee on a preliminary plat.

In other business, the Board continued the public hearing on the petition to abandon a portion of Tammany Hill Road by Petitioners Tom and Cindy Stewart. Present at this meeting was Civil Counsel James McCubbin and Mr. and Mrs. Stewart.

EXHIBIT A-2

Ravalli

County
MONTANA

RECEIVED

APR 11 2006

Ravalli County Planning Dept.

IC-06-04-608

PLANNING DEPARTMENT
215 S 4TH ST
HAMILTON, MT 59840
406.375.6530; 406.375.6531

MEMORANDUM
OG-06-04-444

To: Debbie Reesman, Department of Revenue
From: Shaun Morrell, Ravalli County Planning Department SM
Date: April 11, 2006
Subject: Tax Information Request

Information Requested By: April 21, 2006
Subdivision Name: Squires Estates Subdivision
Parcel Number: 1342300
Geocode Number: 1765-18-4-01-01-0000
Number of Lots: 9 Lots on 40.2 Acres
Cash-in-Lieu: \$ 3576⁰⁰ per unsubdivided and unimproved acre

Comment: 1.00 ACRE X \$3,576.00/acre = \$3,576 required

Signature

Date

4-14-06

red
4/12/06

RECEIVED

MAY 8 2006
10-06-05-717
Ravalli County Planning Dept.

EXHIBIT A-3

Dennis Kimzey
Superintendent
Extension: 138

Stevensville Public School

300 Park Avenue
Stevensville, Montana 59870
Telephone (406) 777-5481
Fax (406) 777-1381

Pat Pfau
Executive Secretary
Extension: 136

May 4, 2007

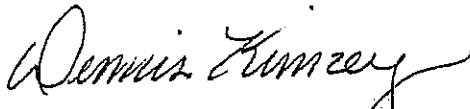
Benjamin Howell
Ravalli County Planning Dept.
215 – South 4th Street, Suite F
Hamilton, MT 59840

Benjamin,

Thank you for sending information on the 40 acre, Squires Estates Major Subdivision. Please keep in mind our Stevensville Public School District buses will not travel on non-county or state maintained roads. And, the yearly cost to educate a youngster is \$5000. per student.

Thank you for the opportunity to respond.

Sincerely,



Dennis Kimzey, Superintendent
Stevensville School District

EXHIBIT A-4

Stevensville Rural Fire District
P.O. Box 667
Stevensville, MT 59870

MAY 12 2006
16-06-05-744
Ravalli County Planning Dept.

May 11, 2006

Ravalli County
Planning Board
Attn: Karen Hughes
215 South 4th, Suite F
Hamilton, MT 59840

Re: Squires Estates Major Subdivision (Ede)

Dear Ms. Hughes,

We have reviewed the above referenced property in regard to access and water. We found access to be adequate and we require either a water system in accordance with the uniform fire code or a \$500.00 per lot voluntary contribution. We have no objections to this proposed sub-division.

Sincerely,



Bill Perrin, Chief
Stevensville Rural Fire District

BP:slm

Cc: Terry & Dani Ede

APR 26 2006
1C-06-04-653
Ravalli County Planning Dept

Environmental Health
215 South 4th – Suite D
Hamilton, MT 59840
(406)375-6268 FAX (406)375-2048

MEMORANDUM

TO: Ravalli County Planning Department
FROM: ✓ Morgan T. Farrell, R.S., Environmental Health
DATE: 4-26-06
RE: SQUIRES ESTATES

The Ravalli County Environmental Health Department has received the above-referenced proposal for review. Based on the information provided, the application appears to be sufficient for subdivision review. The Sanitation in Subdivision review will be completed in accordance with the contract with the Department of Environmental Quality. Additional questions or comments may be required based upon the continued review of this file and the content of future submittals.

SPEC. ENGINEERING